

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Equal Access and Interconnection	)	CC Docket No. 94-54
Obligations Pertaining to	)	RM 8012
Commercial Mobile Radio Services	)	

REPLY COMMENTS OF THE  
COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorney, hereby submits its reply comments in response to the Notice of Proposed Rule Making and Notice of Inquiry ("Notice") in the above-captioned proceeding. The Commission proposes to impose equal access obligations on certain commercial mobile radio service ("CMRS") providers and seeks comment on its tentative conclusions in that regard. <sup>1/</sup> CompTel supports those parties who advocated in their comments that the Commission adopt equal access obligations for all CMRS providers that offer a two-way or responsive service, which would initially include cellular, broadband PCS and ESMR. <sup>2/</sup>

<sup>1/</sup> CompTel is the principal industry association of the nation's competitive interexchange telecommunications carriers, with approximately 140 member companies, including large nationwide interexchange carriers ("IXCs") and smaller regional carriers. CompTel filed comments on the MCI Petition for Rulemaking in September 1992.

<sup>2/</sup> See Comments of MCI Telecommunications, Inc. ("MCI"), Allnet Communications Services, Inc. ("Allnet"), LDDS Communications, Inc. ("LDDS"), and Wiltel, Inc. ("Wiltel").

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## **I. BASIS FOR EXISTING EQUAL ACCESS OBLIGATIONS**

The initial equal access regulations were imposed on the Bell Operating Companies ("BOCs") to assure that all IXCs were treated equally in obtaining access to the local exchange network. <sup>3/</sup> Those obligations emanated from antitrust concerns and were imposed by the Modification of Final Judgment ("MFJ"). <sup>4/</sup> Subsequently, the Commission extended the equal access requirements to all LECs for the stated purpose of encouraging competition by affording all IXCs equal access to their customers on a uniform basis and the creation of a competitive telecommunications marketplace nationwide. <sup>5/</sup>

Because of the MFJ provisions, the BOCs are required to implement equal access for their cellular service offerings. However, the non-BOC cellular carriers are not required to offer equal access. In fact, some cellular systems have withdrawn equal access from their customer base once they were no longer owned by a BOC, despite the continued capability to provide equal access. <sup>6/</sup> This dichotomy in treatment by BOC and non-BOC cellular systems prompted MCI to file its rulemaking petition on

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<sup>3/</sup> United States v. AT&T, 552 F.Supp. 131 (D.D.C. 1982) aff'd sub nom. Maryland v. U.S., 460 U.S. 1001 (1983).

<sup>4/</sup> United States v. AT&T, 552 F.Supp. 131, 226-234.

<sup>5/</sup> MTS and WATS Market Structure, CC Docket No. 78-72, Phase III, 94 FCC 2d 292, 296-98 (1983) ("MTS/WATS Notice"); MTS and WATS Market Structure, CC Docket No. 78-72, Phase III, 100 FCC 2d 860 (1985).

<sup>6/</sup> Allnet at 1.

June 2, 1992 seeking extension of the equal access provisions to all cellular carriers. <sup>7/</sup> Among the reasons advanced by MCI for its request were that IXCs' ability to serve their customers was being unreasonably inhibited and that equal access was necessary to make cellular an integral part of the nationwide telecommunications network.

## **II. BASIS FOR EXTENDING EQUAL ACCESS REQUIREMENTS**

We are now at the threshold of a new wireless age, with the introduction of PCS and other technologies that will compete with existing services and each other as part of integrated nationwide networks. Equal access is critical to the development of these new wireless services and competition in those services, just as it was the central factor in the development of interexchange competition in the wireline market. <sup>8/</sup> The basis for imposing equal access requirements on the BOCs and other LECs was that such carriers should not exercise control over their customers' choices of a long distance carrier by virtue of control over the local loop. This concern over incentives to discriminate applies equally to wireless services. <sup>9/</sup> Considered from the customer's perspective, the same competitive choices for long distance carriers should be available for mobile services as for wireline services.

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<sup>7/</sup> Notice at ¶ 13, MCI at 1-2.

<sup>8/</sup> LDDS at 1, Wiltel at 2.

<sup>9/</sup> Id. at 2.

To assure that these new services are regulated in a consistent and reasonable manner, Congress adopted Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 ("Budget Act"), <sup>10/</sup> which revises Section 332 of the Communications Act. Underlying this statutory provision was the Congressional objective of providing an environment where wireless services could develop and compete with each other and existing services. The Commission, in turn, initiated the CMRS proceeding and this Notice.

The Commission now proposes to evaluate each CMRS for purposes of determining whether to impose equal access requirements on the basis of: (a) an analysis of the market power of the CMRS provider; and (b) whether equal access would serve the Commission's public interest goals. <sup>11/</sup> Based on these criteria, the Commission tentatively concludes that it should impose equal access obligations on cellular carriers, but seeks additional comment on extending the obligation to other CMRS providers.

Upon review of the comments, CompTel advocates that the appropriate test for determining equal access obligations for CMRS providers should be the Commission's public interest objectives, rather than market power. Central among those objectives are the benefits of equal access to CMRS customers. The first of these

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<sup>10/</sup> Pub. L. No. 903-66.

<sup>11/</sup> Notice at ¶ 31.

benefits is customer choice. Equal access promotes customer choice by placing the decision of which interexchange service provider to use in the hands of the CMRS customer. <sup>12/</sup> This will result in expanded competition and efficiency among IXC's. It will also mean that IXC's will compete on the basis of service distinctions rather than on regulatory distinctions. <sup>13/</sup> The second benefit is network connectivity. Equal access for CMRS will assure that those customers have access to the same full range of service choices that wireline customers have, <sup>14/</sup> which will ultimately result in cost savings to the end user. Otherwise, CMRS customers would be restricted to more limited choices or no "choice" at all. The third benefit is that regulatory parity will be achieved. Uniform equal access rules would eliminate inconsistencies between BOC and independent LEC's, and between all LEC's and CMRS providers, which would eliminate customer confusion <sup>15/</sup> and ensure that all carriers -- LEC's, IXC's, CMRS providers -- have sufficient incentives for developing a "network of networks." <sup>16/</sup>

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<sup>12/</sup> LDDS at 12, Wiltel at 10.

<sup>13/</sup> LDDS at 14.

<sup>14/</sup> LDDS at 13, Wiltel at 10.

<sup>15/</sup> LDDS at 14, Wiltel at 10.

<sup>16/</sup> Notice at ¶ 42.

**III. EQUAL ACCESS SHOULD APPLY TO  
CELLULAR AND TWO-WAY, INTERACTIVE CMRS**

When the historical basis for equal access policies is examined, it is apparent that the central attention given to antitrust concerns has been complemented, and perhaps even overtaken, by the need for an integrated nationwide network and consumers' reliance on a choice of IXCs as a part of nationwide services. Such a focus is justified both by the Budget Act and the Commission's oft-stated goal of fostering wireless service development. CMRS customers for two-way, interactive service should be able to use the IXC of their choice regardless of whether their CMRS provider has market power. Any concern with the costs to the carriers of equal access is outweighed by the public interest benefits of implementing this policy. <sup>17/</sup> In the case of cellular, the service is well-established in virtually all markets and the economic burdens of implementing equal access should be minimal. New services such as broadband PCS could include equal access as part of the cost of developing the service. <sup>18/</sup> Since hardware and software modifications will not be required, costs of equal access should be far lower than for wireline services.

Application of the historical basis for equal access policies and the significant benefits of equal access point to a

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<sup>17/</sup> LDDS at 14, Wiltel at 10.

<sup>18/</sup> Wiltel at 11.

determination that the equal access provisions should apply to cellular service and other two-way, interactive CMRS, such as broadband PCS and ESMR. The Commission has already reached the tentative conclusion that equal access requirements should apply to cellular. <sup>19/</sup> Specifically, the Commission found that cellular customers would benefit from equal access through promoting customer choice and competition in the interexchange marketplace. The Commission recognized that equal access would assist in assuring that cellular is part of a "network of networks" with customers choosing the parts of the network they want to use.

Similarly, the equal access requirement should be extended to all CMRS providers who offer two-way, interactive services. As the Commission has indicated, such services will become part of a network of services that compete with other wireless services and ultimately even local exchange services. In such an environment, customers cannot be subjected to different IXC choices depending upon which CMRS provider they happen to be utilizing at the time. The public interest requires that all customers of two-way, interactive CMRS should have access to all IXCs on an equal access basis.

#### **IV. CONCLUSION**

CompTel urges the Commission to adopt equal access requirements for all cellular services and all other commercial mobile radio services with a two-way, interactive capability,

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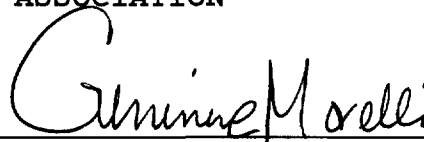
<sup>19/</sup> Notice at ¶¶ 36-42.

particularly broadband PCS and ESMR. Such a policy would promote consumer choice of interexchange carriers and wireless service development and competition.

Respectfully submitted,

**COMPETITIVE TELECOMMUNICATIONS  
ASSOCIATION**

By:

A handwritten signature in dark ink, appearing to read "Genevieve Morelli", written over a horizontal line.

Genevieve Morelli  
Vice President & General Counsel  
Competitive Telecommunications  
Association  
1140 Connecticut Avenue, N.W.  
Suite 220  
Washington, D.C. 20036  
(202) 296-6650

Its Attorney

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